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Ontario

The Employment Standards Act

The Employment Standards Act is the law that contains the basic rules about working in Ontario and employing people in Ontario. Both employees and employers have rights and responsibilities under the Act.

These are some of the rules that everyone should know.

VACATION PAY

After working for an employer for 12 full months, an employee is entitled to a minimum of two weeks vacation, with pay, each year.

An employee who works for an employer for less than 12 months and quits or is terminated, is entitled to receive at least 4 per cent of the total wages as vacation pay.

DEDUCTIONS

An employer must deduct such things as income tax, Canada Pension Plan and Employment Insurance from an employee's wages. Other deductions can be made *only* if the employee agrees to the deduction *in writing*. This agreement is called an "authorization". But there are limits to the deductions an employer can make.

Any authorization must state the amount that can be deducted. If it says "any money missing" or "any money I owe to my employer", it is not legal.

Even with a signed authorization, the employer can't make deductions from an employee's pay if:

- there is any faulty workmanship. For example, if the employee makes a mistake that causes something to break, the cost of fixing this can't be deducted from wages.
- there is cash or property missing if more than one person has access to it.

MINIMUM WAGE

Minimum wage is the lowest wage rate an employer can pay an employee. Full-time and part-time employees are covered. Minimum wage applies regardless of how you are paid – such as piece work or commission.

Effective date	January 1, 1995
General, hourly rate	\$6.85
Liquor-servers	\$5.95
Students under 18 working 28 hours or less per week	\$6.40
Homeworker, hourly rate	\$7.54

Employees must also be paid for all hours worked. Other rules apply to room and meal allowance and to hunting and fishing guides.

Any changes to the minimum wages will be advertised.

HOURS OF WORK

Normal working limits for most employees in Ontario are eight hours a day and 48 hours a week. An employee may not work more than eight hours a day or 48 hours a week, unless the employer has obtained a permit from the Director of the Employment Practices Branch of the Ministry of Labour.

The permit does not mean that employee *must* work extra hours. It only means the employer can *request* extra hours from an employee.

Meals and Coffee Breaks: An employee cannot work more than five hours in a row without getting at least a one-half hour meal break. If coffee breaks or other rest periods are allowed, they are part of work-time and cannot be deducted from wages.

Meal breaks shorter than one-half hour must be approved by the Employment Standards Program of the nearest Ministry of Labour office.

OVERTIME PAY

Under the law overtime pay is one-and-one-half times the regular wage. Sometimes this is called "time and a half". For example, if the regular wage is \$8.00 an hour, then overtime pay would be:

$$\$8.00 + \$4.00 (\frac{1}{2} \text{ of } \$8.00) = \$12.00$$

Overtime pay starts for most employees after they have worked 44 hours in a work week unless the employer and employee agree to starting it before 44 hours.

PUBLIC HOLIDAYS

Under the law, Ontario has eight paid public holidays:

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| • New Year's Day | • Labour Day |
| • Good Friday | • Thanksgiving Day |
| • Victoria Day | • Christmas Day |
| • Canada Day | • Boxing Day (Dec. 26th) |

Most employees who qualify for public holidays don't have to work on these days, but are still paid their regular wages for the day.

To qualify for a public holiday, a full-time or part-time employee must have:

- been employed for three months or more; and
- earned wages on at least 12 days during the four work weeks right before the holiday;
- worked on the regularly *scheduled day before* and on the regularly *scheduled day after* the holiday;
- not been employed under an elect-to work-arrangement; and
- a reasonable excuse if they agreed to work and failed to show up.

All these rules *must* apply to the employee at the same time. If any rule does *not* apply, then the employee does *not* qualify for a public holiday.

Most employees who agree to work on a public holiday must be paid time and one-half for working on the holiday. This is in addition to a regular day's pay if the employee qualifies for the paid public holiday.

TERMINATION OF EMPLOYMENT

Termination of employment is when an employee stops working permanently for an employer. There are other words that mean the same as termination: "being let go", "discharged", "dismissed" or "fired".

An employer can terminate an employee's employment at any time, but must give written notice of termination, or termination pay instead of notice.

"Termination pay" is pay instead of written notice of termination when employment ends. This is sometimes called "pay-in-lieu of notice" or "lieu pay". It is about one week of pay for every year worked to a maximum of eight weeks.

Not everyone is entitled to get written notice or termination pay. For example, an employee who has been employed for less than three months is not entitled to notice or termination pay. There are other situations where notice of termination is not required. For more information call the nearest Ministry of Labour office.

(A temporary layoff is usually for 13 weeks or less and is not the same as termination. Notice is not required for a temporary layoff).

SEVERANCE PAY

Severance pay is different from termination pay. Severance pay is additional money paid by an employer to some employees who lose their jobs. It is paid in recognition of their years of service and the effort they have put into the employer's business.

Not everyone can get severance pay. For the rules about who gets severance pay, contact the nearest Ministry of Labour office.

PAYROLL RECORDS

Employees must receive a written wage statement each pay day. This must give full details about hours worked, earnings and all deductions. This is usually called a "pay stub". The employee must be given this record to keep.

Employers must record the hours worked daily and weekly by the employee. Other records that must be kept include details of wages and overtime, vacation and public holiday pay and all deductions from an employee's earnings.

Note: This poster reflects changes made to the legislation by Bill 49. The government has announced its intention to conduct a comprehensive review of the Employment Standards Act.

You should also understand that this poster is for your convenience and information only. It is not a legal document. For precise information and interpretation, please refer to the text of the Employment Standards Act and the appropriate regulations.

There are many other rules that deal with such things as pregnancy and parental leave, working on Sunday, equal pay for equal work, agricultural workers, layoff, domestic workers (including babysitters), homeworkers, and lie detector tests.

If you have a problem and you think that your rights under the *Employment Standards Act* have been violated, talk to your employer about the problem. If you and your employer cannot agree on what the law says, call the Ministry of Labour and speak to someone in the Employment Standards Program. The telephone number is in the blue pages of your telephone book under Government of Ontario - Labour. You can also find more information on the ministry's fax-back system at 416-326-6546 and on the Government of Ontario's web site at www.gov.on.ca/LAB/main.htm.

If you are entitled to file a claim, you have six months after the money came due to file the claim.

If you are covered by a collective agreement you cannot, with some exceptions, file a claim with the Ministry. Instead, you must use the grievance procedure. Speak to your union representative.

